



ASSEMBLY MEMBER MIKE ENG

AB 370 - Unlicensed Contractors

Los Angeles City Attorney Rocky Delgadillo (Sponsor)

Contractor State License Board (Co-Sponsor)

SUMMARY

AB 370 will protect California consumers and law-abiding contractors by requiring that restitution be made to victims of unscrupulous unlicensed contractors; increasing the maximum criminal penalties for unlicensed contractors; and clarifying that mandatory minimum sentences for repeat offenders applies to unlicensed contractors who submit bids for contracting work.

THE PROPOSAL

AB 370 would ensure that a victim who hires an unlicensed contractor would not have to prove in a criminal court that he/she held a mistaken belief that the contractor was duly licensed in order for that victim to be eligible to obtain restitution for economic loss caused by that contractor. Further, this bill increases the maximum potential fine for a first offense from \$1,000 to \$5,000. For a second and subsequent offense, this measure increases the current mandatory fine from \$4,500 up to \$5,000. Third offenders will also be required to serve a mandatory jail sentence (as is currently required of second offenders.). Finally, this measure would apply the mandatory minimum fine to repeat offenders who enter into a contract with the victim, or take money from the victim, but do not perform any of the contracting work.

BACKGROUND

Contractor fraud, most of which involves unlicensed contractors, consistently ranks in the top ten lists of consumer complaints both nationally and statewide. According to the U.S. Office of Consumer Affairs, unscrupulous contractors defraud consumers of more than \$100 billion annually. In addition to the financial loss they cause, unlicensed contractors generally do not obtain proper insurance, leaving their workers without any protection and the homeowner potentially liable.

Our civil laws (B&P §7031(b)) specifically mandate that unlicensed contractors disgorge all monies paid by their victims (more than just economic loss) and do not require victims to make any showing of mistaken belief. However, our current criminal laws do not clearly require unlicensed contractors to pay restitution for even the economic loss they cause unless that victim can establish they held a prior mistaken belief that the contractor was licensed. Since many crime victims are unsophisticated and/or lack the financial means to pursue their loss through the civil courts, the unlicensed contractors are the beneficiaries of this serious flaw in the current criminal statutes. Also, despite the immense harm caused by unlicensed contractors, violators of this law are punishable by up to only 6 months in jail and a maximum fine of \$1,000 – regardless of how much money the victim paid that unlicensed contractor.

Despite efforts to decrease fraud in the contractor field, unlicensed contractors continue to flood the bidding process, demonstrating a blatant disregard for the law and representing a significant risk to public safety. According to the Contractors State Licensing Board, the stringent mandatory penalties of existing law for repeat offenders are not mandatory against a previously convicted non-licensee who submits bids for construction work, takes the money and performs no work. Obviously, this is an unintended loophole that should be corrected.

SUPPORT

Los Angeles City Attorney's Office, California District Attorneys Assn, Contractor State Licensing Board, CA Chapter of the American Fence Contractors Assn, CA Fence Contractors Assn, CA Landscape Contractors Assn, CA Spa & Pool Industry Education Council, Congress of California Seniors, Construction Industry Legislative Council, Engineering Contractors Assn, Flasher/Barricade Assn, National Chinese American Citizens Alliance and Western Electrical Contractors Assn.

STAFF CONTACT

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